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C O N F I D E N T I A L SECTION 01 OF 02 PRISTINA 000243

SIPDIS

DEPT FOR EUR, EUR/SCE, DRL, INL AND S/WCI, NSC FOR BRAUN,
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KV, YI

SUBJECT: KOSOVO: AVOIDING CUSTOMS ADMINISTRATIVE GAPS IF
UNMIK RECONFIGURES

REF: PRISTINA 85

Classified By: CHARGE D'AFFAIRES TINA KAIDANOW FOR REASONS 1.4 (B) AND (D)

¶1. (C) SUMMARY. On June 15, Kosovo's constitution will enter into force. In principle, authorities currently exercised by UNMIK should be transferred to relevant Kosovo Government institutions, though the discussion of UNMIK "reconfiguration" continues and the nature of the actual transition remains murky. Given the uncertainties of the transition process, and given the fact that opposition to Kosovo's independence from Belgrade, from Kosovo's Serb community, and from some EU member states could cause operational difficulties in the administrative handover, Kosovo will likely not be in a position to fully accept or fulfill every UNMIK role and responsibility. In a recent meeting with Charge, UNMIK Pillar IV head Paul Acda underscored this as particularly evident in the area of customs services, where UNMIK, not the Kosovo government, is still regarded by many as the principal acting authority. He noted that there is a possibility that non-recognizing countries could cease trade with Kosovo once "UNMIK customs" becomes "Kosovo Customs," potentially causing a negative impact on Kosovo's budget revenues and economic development. In this, and several other functional and administrative areas, we believe a handful of UN personnel could play a critical residual role after the larger UN mission departs. Such a downsizing plan has been offered by UNMIK to DPKO (provided to EUR/SCE), a plan that would dramatically reduce the functions that UNMIK performs in Kosovo but still retain a few vital, mainly external, operations. END SUMMARY.

¶2. (C) With the Kosovo constitution coming into force on June 15, a number of institutional competencies will, at least in theory, pass to the Kosovo government from UNMIK, although this formal UNMIK "reconfiguration" has yet to be agreed by the UN hierarchy in New York. While GOK officials have already assumed many key responsibilities from UNMIK in the last few years, some significant functional duties and roles have not yet been transferred, including some that have a direct impact on Kosovo's economic development and international credibility. UNMIK has been the international representative and liaison for Kosovo with several

multilateral institutions and agreements, such as the Central European Free Trade Agreement (CEFTA), the Energy Community Common Market, and the European Common Aviation Area (ECAA), among others. Since Kosovo's participation in these organizations has been through UNMIK, inclusion without the UN umbrella would have to be re-negotiated with each member, not all of whom recognize Kosovo as a sovereign state. Exclusion from these and other organizations would have negative consequences for Kosovo's ability to continue privileged trading relationships, aviation arrangements, and to ensure energy security.

UNMIK Customs becomes Kosovo Customs

¶3. (C) The Charge met with UNMIK Pillar IV head Paul Acda on May 6 to discuss preparations for the transition of UNMIK authorities to GOK institutions. (Note: UNMIK Pillar IV, its economic oversight arm, is funded by the EU and will under any circumstances cease to function after the end of June; the EU has so notified the UN and is engaged in preparations for its shutdown.) Acda reviewed those areas where UNMIK has been engaged in Kosovo's economic sector, noting the external function of representation described in the above paragraph and also discussing the question of customs. Once UNMIK Customs officially becomes the Kosovo Customs Service, he said, it is unclear whether cooperation with neighboring and regional customs services will continue, as some of these countries do not recognize Kosovo's independence. Trade and cooperation have continued since independence because many of these countries -- including Serbia -- have agreed to work with UNMIK, and Kosovo is

PRISTINA 00000243 002 OF 002

permitted duty-free exports to all EU countries per an agreement negotiated through UNMIK. Acda added that it is entirely possible that non-recognizing countries will reject certificates of origin and stamps issued by the Kosovo Customs Service and refuse entry for Kosovo-produced goods. Continued information sharing between regional customs services could also be at risk, jeopardizing accountability and smuggling control measures.

¶4. (C) Acda also noted that Serbia could declare Kosovo an illegal customs regime after UNMIK's departure and attempt to officially annex Kosovo as part of Serbian customs territory.

(This is a threat we have discussed before; the possible effects of this scenario have been described ref tel.) Thus far, and notwithstanding the absence of effective customs operations at the two northern gates, Serbia has continued limited cooperation on customs issues at other gates and in an administrative sense via intermediation through UNMIK Customs. Serbian counterparts have told UNMIK they do not want to cease communication with customs in Kosovo, but without UN intermediation there would be no mechanism in place that would allow them to continue the dialogue. While the EULEX Customs component of monitors and mentors theoretically could be deployed by the end of June, their current mandate does not include any of the administrative or representational roles now performed by UNMIK, and EU Planning Team head Roy Reeve told the Charge that a reopening of the mandate discussion in Brussels could lead to months of wrangling among member states over issues already considered closed, a prospect he said the EU would not relish.

Case for a Residual UNMIK Presence

¶5. (C) Acda suggested the possibility of creating an "External Economic Policy Office" under a small residual UN presence post-transition to fill in the administrative gaps left by UNMIK's departure. A plan for such a small residual presence (no more than thirty individuals total and even less by the end of 2008, should circumstances permit) has already been submitted by UNMIK to DPKO in New York (provided to EUR/SCE) and could help ease the effects of transition and ensure functional continuity. (Acda argued for possible retention by the UN of staff currently working under Pillar IV contracts given the basis of expertise involved, but we

doubt that the UN would agree to this arrangement.) At any rate, the external economic policy unit could continue to fulfill certain administrative customs functions, such as issuing certificates of origin and negotiating trans-shipment of goods with individual countries if they are non-recognizing. The UN could also perform a liaison role with international economic and trade organizations, particularly where Kosovo is already represented by UNMIK but cannot become a full partner due to non-recognition by other member states.

¶6. (C) COMMENT: A number of issues and potential gaps may emerge from a sudden or gradual UN downsizing in Kosovo, some of which will need to be dealt with ad hoc, while others -- like the customs question -- could benefit from a considered UN reconfiguration that includes elements of external representation and intermediary functions post-transition. These questions should be considered carefully and, to the extent possible, discussed with DPKO as the UN makes practical decisions about the shape and size of its residual presence in Kosovo under UNSC 1244.

KAIDANOW